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VIA ECF

The Honorable Eric N. Vitaliano
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: *Yehuda Katz v. ABP Corporation*, CV 12-4173 (E.D.N.Y.) (ENV) (RER)

Dear Judge Vitaliano:

We write on behalf of defendant ABP Corporation (“ABP”) in response to the letter dated November 15, 2012 from Plaintiff’s counsel, Shimshon Wexler, requesting permission to amend the Complaint in this action *prior to* ABP serving its motion to dismiss (the subject of my letter dated November 9, 2012).

ABP does not oppose Plaintiff’s suggestion that the Court permit Plaintiff to file an Amended Complaint now, prior to ABP serving a motion to dismiss. While ABP strongly disputes Plaintiff’s assertions that the original Complaint is facially plausible and pleads enough factual information to suggest that ABP violated the Fair Credit and Accurate Transactions Act (“FACTA”) willfully, ABP recognizes that the most efficient way to proceed at this point, given Plaintiff’s intention to amend, is for Plaintiff to amend the Complaint now.

Following Plaintiff’s filing of an Amended Complaint, Plaintiff should be required to stand on his second pleading -- with no further amendments permitted. At that point, ABP will have the opportunity to review and respond to the Amended Complaint, and ABP can seek the Court’s permission to move to dismiss the Amended Complaint.

Respectfully,



Stephen L. Saxl

cc: Shimshon Wexler, Esq. (via ECF)